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FILED
08 FEB -6 AM 10:56
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: CP DEPUTY

ADORNO YOSS ALVARADO & SMITH
ATTORNEYS AT LAW
SANTA ANA

**UNITED STATES DISTRICT COURT**

**SOUTHERN DISTRICT OF CALIFORNIA**

FRANKI BOLORIN and ROSA RAMOS,

Plaintiffs,

v.

REINER, REINER & BENDETT, P.C.,

Defendant.

CHASE HOME FINANCE, LLC, a Delaware limited liability company

Petitioner,

v.

FRANKI BOLORIN and ROSA RAMOS,

Respondents.

**CASE NO.: 07CV2169 JAH (WMc)**

**ORDER GRANTING PETITION OF CHASE HOME FINANCE LLC TO QUASH DEPOSITION SUBPOENA DUCES TECUM**

Date: January 28, 2008
Time: 11:00 a.m.
Ctrom: "C"

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The Petition to Quash Deposition Subpoena Duces Tecum ("Petition") of petitioner Chase Home Finance LLC ("Chase") came regularly for hearing on January 28, 2008, at 11:00 a.m. in Courtroom "C" of the above-entitled Court, the Honorable William McCurine, Magistrate Judge, presiding. S. Christopher Yoo, Esq. of Adorno, Yoss, Alvarado & Smith, a Professional Corporation, appeared for Chase. Joshua B. Swigart, Esq. of Hyde & Swigart appeared for respondents Franki Bolorin ("Bolorin") and Rosa Ramos ("Ramos" and collectively, or "Respondents"). The Court, having considered the moving, opposing, and reply papers, and the oral arguments of counsel ordered as follows:

1. Chase made three arguments in support of its petition. Chase argued that there was no evidence the subject deposition subpoena was personally served on Chase. The court overrules this argument. Under Federal Rules of Civil Procedure ("FRCP") 45(b)(1), there is no requirement that the subpoena had to be personally served. Moreover, in its June 7, 2007 letter, Chase admitted that it had been "served" with the subpoena. Therefore, the Court finds that Chase was properly served with the subject deposition subpoena. Chase also argued that the subject deposition subpoena is invalid because it exceeded the one hundred (100) mile rule set forth in FRCP 45(c)(3)(A)(ii). However, the Court finds that because the deposition subpoena only required production of documents and not personal attendance, the subject deposition subpoena did not violate the one hundred (100) mile rule set forth in FRCP 45(c)(3)(A)(ii). However, the Court agrees with Chase's contention that "unusual circumstances" exist in this matter, because the deposition subpoena on its face seeks documents arguably protected by the attorney-client privilege. Further, there is no evidence that Chase failed to act in good faith. *Moon v. SCP Pool Corp.*, 232 FRD 633, 636 (C.D. Cal 2005). Therefore, the Court grants the Petition in part, and rules that Chase did not waive any privilege, including attorney-client privilege, in connection with the documents requested in the subject deposition subpoena.

2. However, the Court does not make any determination or ruling as to whether the documents requested in the subject deposition subpoena are indeed privileged. Under the court powers set forth in FRCP Rule 26(c), the Court transfers this issue and all other matters not expressly covered by this ruling to the United States District Court, District of Connecticut action

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entitled, *Bolorin et al v. Borinno, Reiner, Reiner & Bendett*, the United States District Court, District of Connecticut, Case No. 06-CV-01295-AWT ("Connecticut Action"), is already pending in the Connecticut District Court, and a motion to compel previously filed by Respondents in the Connecticut Action addressing the similar issues is under submission.

Date: February 5, 2008

HONORABLE WILLIAM MCCURINE, JR.
MAGISTRATE JUDGE OF THE UNITED
STATES DISTRICT COURT

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